THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.23136 OF 2006

DATED 16th MARCH, 2007

Between

Kavvampalli Mallaiah and others.

... Petitioners

AND

The District Revenue Officer, Karimnagar, and others.

.... Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.23136 OF 2006

ORDER:

All the petitioners belong to one family. Second petitioner is the mother and first petitioner is her son and petitioners 3 and 4 are daughters of second petitioner. They filed the instant writ petition seeking a writ of Mandamus directing the respondents to consider the case of the petitioner for grant of assignment in respect of land admeasuring Acs.5.00 guntas in survey No.439 situated in Chintakunta village, Karimnagar Mandal and District (hereafter called, the subject land). The petitioners allege that since the time of their forefathers they are in possession and are cultivating the subject land. They allege that they belong to scheduled caste community entitled for assignment of the land. In 1999, the land was assigned to the father of respondents 4 and 5, namely, Nomula Narsaiah. The petitioners approached the third respondent and filed an application for redressal. By order, dated 01.06.1999, third respondent ordered resumption of the subject land from Narsaiah on the ground that he has not utilised the land for the purpose of agriculture and violated conditions of patta. Aggrieved by the same, respondents 4 and 5 preferred an Appeal before the second respondent, in which, petitioners got impleaded. At that stage, having come to know that the third respondent proposed to assign the same land to Laxamanachary, petitioners raised objection. By Memo, dated, 23.11.2002 they were informed that the land

proposed for assignment to Laxamanachary is different land. However, when there was a threat of dispossession, the petitioners filed W.P.No.19945 of 2005. This Court disposed of the same at the stage of admission observing that pending consideration of the representation for assignment, they cannot be dispossessed without due process of law. The petitioners also filed O.S.No.731 of 2005 on the file of the Court of the Principle Junior Civil Judge, Karimnagar, against third parties, who tried to grab the land. The trial Court granted injunction on 19.06.2006 in I.A.No.3178 of 2005 against the defendants therein. In the meanwhile, second respondent – Revenue Divisional Officer (RDO) dismissed the Appeal preferred by respondents 4 and 5 on 21.02.2006. The application filed by the petitioners to get impleaded was also dismissed. They, therefore, filed a revision petition before the first respondent and brought for stay of the orders of the RDO. The petitioners allege that no orders are passed on the interlocutory application and taking advantage of the same, respondents are trying to dispossess them. They approached A.P.State Commission for Scheduled Castes and Scheduled Tribes, who requested the District Collector to look into the matter. The petitioners contend that when the family is in possession of the land for over five decades, the proposals to dispossess them without due process of law when the application is pending for assignment is illegal and arbitrary.

Learned Assistant Government Pleader took notice and requested time for getting instructions in the matter. This Court also ordered notice to respondents 4 and 5. After taking out notice, learned counsel for petitioners filed Memo to the effect that notices sent to respondents 4 and 5 returned unserved. However, the matter was heard and is being disposed of by this order.

When the petitioners filed W.P.No.19945 of 2005 seeking a similar relief, this Court disposed of the matter on 30.09.2005 in the following manner.

> The four petitioners alleged that they and their predecessors are in possession of the land in S.No.439/21 admeasuring Acs.5.00 for more than a century. They alleged that they also approached the authorities for grant of assignment of land, in vain. According to the petitioners, the respondents are now proposing to dispossess them without giving notice. Apprehending forcible dispossession, they filed present writ petition.
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> After hearing the learned counsel for the petitioners and the learned Assistant Government Pleader for Revenue (Assignment), this Court is of considered opinion that if the petitioners are in possession and their representations for assignment are pending, unless and until the fourth

respondent follows due process of law, possession of the petitioners, if they are in possession, cannot be disturbed.

The writ petition is accordingly disposed of. No costs.

Learned Assistant Government Pleader, however, does not dispute that thereafter the RDO dismissed the Appeal filed by respondents 4 and 5 as well as the application filed by petitioners for impleadment, on 21.02.2006. A copy of which is annexed to the writ petition. The petitioners then moved first respondent by way of revision and an interlocutory application for interim orders. There is no denial that the same is pending. Therefore, pending the revision if the petitioners are dispossessed, their entire effort to get regular assignment would be futile. The first respondent should necessarily pass orders immediately on the revision filed by the petitioners. This Court also observes that as the matter of assignment of land to the petitioners or for that matter, respondents 4 and 5 have been pending for considerable long time. It would even be better if the first respondent looks into the matter and dispose of the revision/appeal filed by the petitioners as expeditiously as possible preferably within a period of four weeks from the date of receipt of copy of this order. Liberty is given to the petitioners to obtain appropriate orders from the revisional authority for stay of proceedings of the RDO.

The writ petition is accordingly disposed of. No costs.

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(V.V.S.RAO,J)

16.03.2007.
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